

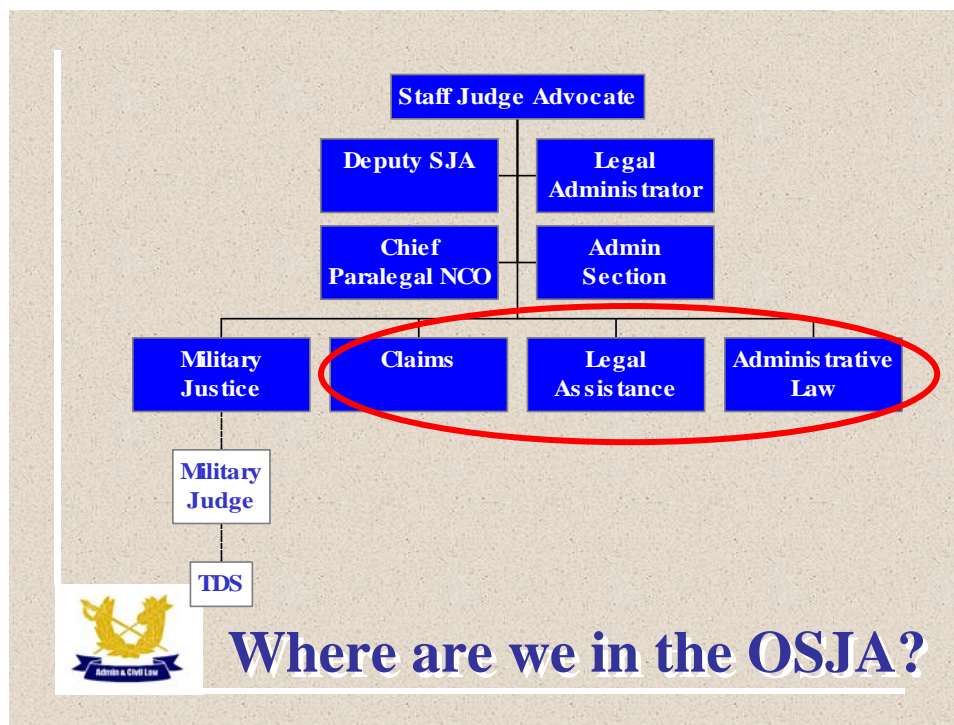
## CHAPTER 15

### INTRODUCTION TO ADMINISTRATIVE & CIVIL LAW

#### I. PURPOSE.

The purpose of this text and your Administrative and Civil Law instruction is to provide you with an appreciation for the legal environment in which the Army operates and the need for close liaison between commanders and judge advocates in all areas of Army activities.

#### II. WHERE TO GET HELP IN THESE AREAS



#### III. ADMINISTRATIVE LAW.

A. Defined: "Body of law created by administrative agencies in the form of rules regulations, orders, and decisions." Black's Law Dictionary

B. Administrative law is the "internal" law of the agency. We (and agencies over us) make these rules for ourselves. The Administrative Procedures Act requires us to follow our rules once we establish them.

C. Administrative law is as broad as the mission of the Army and covers virtually every area of Army operations.

#### **IV. CIVIL LAW.**

A. Defined: “Laws concerned with civil or private rights and remedies, as contrasted with criminal laws.” Black’s Law Dictionary

B. There are two aspects of the civil law – agency impact and personal impact on soldiers.

1. Agency Impact. Many Civil Laws impact the operation of the agency. For example, environmental laws have had a profound impact on the conduct of military training and operations.

2. Personal Impact. Many laws also impact soldiers individually, and the Army has undertaken to assist soldiers with these issues in order to preserve readiness. The impacts of these laws are implemented in two programs in the Army:

a) LEGAL ASSISTANCE: “Legal advice, counseling, and other help provided to eligible clients on their personal legal affairs.” AR 27-3.

b) CLAIMS: “A demand for payment of a specified sum of money in writing and signed by the claimant or a properly designated representative.” AR 27-20

**V. AREAS OF COVERAGE.** Within the very broad coverage of Administrative and Civil Law, the JAGC focuses on areas most likely to concern commanders. These areas are listed below.

##### **A. Law of Military Installations**

###### **1. Administrative Law**

- a) Command Authority
- b) Private Orgs/MWR
- c) Administrative Review of Investigations (15-6, Line of Duty, etc.)

###### **2. Civil Law**

- d) Federal State Relations
- e) FOIA/Privacy Act
- f) Environmental Law
- g) Defensive Federal Litigation

##### **B. Military Personnel Law**

###### **1. Administrative Law**

- a) Adverse Administrative Actions (Reprimands, Chapters, etc.)
- b) Administrative Remedies (Article 138 Complaints, etc.)
- c) HIV/AIDs Policy

- d) Substance Abuse Programs
- 2. Civil Law
  - a) Federal Labor Relations
  - b) Law of Federal Employment
  - c) Equal Opportunity
- C. Legal Assistance – Mostly Civil Law except number 5.
  - 1. Family Law (Marital Separations, Custody, etc.)
  - 2. Estate Planning
  - 3. Consumer Protection
  - 4. Taxation
  - 5. Response to Administrative Actions (Reports of Survey, Reprimands, etc.)
- D. Claims
  - 1. Personnel Claims (PCS Claims)
  - 2. Foreign and Deployment Claims
  - 3. Federal Tort Claims
  - 4. Affirmative Claims (Recovering money owed to the Army)